

# JONES DAY

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April 2, 2019

**REDACTED VERSION**

**BY ELECTRONIC DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street S.W.  
Washington D.C. 20554

**Re: REQUEST FOR CONFIDENTIAL TREATMENT  
Handset Progress Report of Progeny LMS, LLC  
WT Docket No. 12-202**

Dear Ms. Dortch:

Progeny LMS, LLC (“Progeny”), by its counsel and pursuant to Sections 0.457 and 0.459 of the Commission’s Rules, 47 C.F.R. §§ 0.457, 0.459, hereby requests that the redacted portions of the attached progress report and the entirety of its attachment (“Progress Report”) be treated as confidential and withheld from public inspection.

On January 17, 2017, the Mobility Division of the Commission’s Wireless Telecommunications Bureau issued an order granting Progeny an extension of its buildout milestones and a renewal of its Multilateration Location and Monitoring Service (“M-LMS”) licenses (“*Extension Order*”).<sup>1</sup> Pursuant to paragraph 35 of the *Extension Order*, Progeny is required to provide periodic reports on its progress in deploying its M-LMS network to support wireless carriers in achieving compliance with the Commission’s wireless location accuracy requirements.<sup>2</sup> Among these reports, Progeny must file a report with the Commission

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<sup>1</sup> See Request of Progeny LMS, LLC for Waiver and Limited Extension of Time, WT Docket No. 12-202, *Order*, DA 17-20 (WTB, Mobility Div., Jan. 17, 2017) (“*Extension Order*”).

<sup>2</sup> Wireless E911 Location Accuracy Requirements, *Fourth Report and Order*, 30 FCC Rcd 1259 (2015) (“*Indoor Location Order*”).

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demonstrating that compatible handsets are commercially available in the United States by April 2, 2019.<sup>3</sup>

In support of this request, and in accordance with the requirements of Section 0.459(b) of the Commission's rules, 47 C.F.R. § 0.459(b), Progeny submits the following:

**0.459(b)(1) Identification of the specific information for which confidential treatment is sought.** Progeny seek confidential treatment for the redacted portions of the attached Progress Report, which includes details on the specific arrangements between Progeny's affiliate, NextNav, LLC, and a major wireless carrier regarding the commercial deployment of wireless handsets that include the technical capability to generate location information using Progeny's M-LMS service.

**0.459(b)(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.** Progeny is being required to submit the above indicated information to the Commission as a condition of the Commission's *Waiver Order* granting Progeny an extension of its buildout milestones and a renewal of its M-LMS licenses.

**0.459(b)(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.** Commercial arrangements between wireless carriers and their equipment and service vendors constitute highly sensitive, confidential, and proprietary commercial and technical information. Progeny believes that the substance of its Progress Report would be protected from disclosure under the Freedom of Information Act ("FOIA") as "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4).

**0.459(b)(4) Explanation of the degree to which the information concerns a service that is subject to competition.** The market for wireless location services has become extremely competitive as a result of the Commission's adoption of its *Indoor Location Order* in 2015. Currently, multiple vendors of location services are competing vigorously against each other to secure commercial agreements with the major wireless carriers to provide some of the location services that the carriers will use to comply with the Commission's wireless location rules.

**0.459(b)(5) Explanation of how disclosure of the information could result in substantial competitive harm.** Progeny is competing with other vendors of indoor location services to secure commercial contracts with the major wireless carriers to provide location services in

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<sup>3</sup> See *Extension Order*, ¶ 35.

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support of their compliance with the Commission's new wireless location rules. Disclosure to Progeny's competitors of the status of Progeny's implementation of its indoor location technology and its work with carriers to incorporate its indoor location technology in commercial wireless handsets would place Progeny at a substantial competitive disadvantage. Progeny's competitors could use this information to improve their own efforts to deploy their location technology and secure commercial contracts with the major wireless carriers.

**0.459(b)(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure.** Progeny does not permit the dissemination of its confidential trade secrets and proprietary information regarding the deployment of its indoor location technology to non-employees without the execution of a confidentiality agreement. For example, Progeny has entered into non-disclosure agreements with its technology vendors and the wireless carriers that it is negotiating with prohibiting the disclosure of Progeny's confidential information regarding the details of its technology deployment efforts.

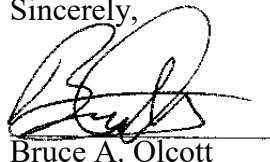
**0.459(b)(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.** The information contained in the redacted portions of the attached Progress Report is not available to the public. Although this information has been disclosed to certain of the major wireless carriers, such disclosure was made subject to a non-disclosure agreement.

**0.459(b)(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.** Progeny requests that the redacted portions of the attached Progress Report be withheld from public disclosure for a period of five years.

For the foregoing reasons, Progeny respectfully request that the redacted portions of attached Progress Report be granted confidential status and be withheld from public inspection. If confidential treatment is not granted for the attached Progress Report, Progeny request that all copies of the Progress Report be returned to Progeny.

Please contact the undersigned if you have any questions about this matter.

Sincerely,



Bruce A. Olcott

**CONFIDENTIAL TREATMENT REQUESTED**

**Handset Progress Report of Progeny LMS, LLC**

**WT Docket No. 12-202**

**April 2, 2019**

The following is a report on the advances that Progeny LMS, LLC (“Progeny”) and its affiliate, NextNav, LLC (the “Company”) have made in bringing its authorized M-LMS spectrum to full commercialization to support emergency location services. This report specifically addresses the Company’s progress in making wireless handsets commercially available that are compatible with the Company’s M-LMS network and services.



Given these developments, the Company anticipates that, absent unforeseen circumstances, wireless handsets that are capable of generating location information using the Company’s M-LMS technology and services will be commercially available in 2020. This will be well in advance of the April 2021 deadline for the major wireless carriers to satisfy the Commission’s vertical accuracy requirements within the top 25 CMAs, which is the first of the wireless location deadlines that is expected to necessitate the use by wireless carriers of the Company’s location services.

**CONFIDENTIAL TREATMENT REQUESTED**

**ATTACHMENT REDACTED**